

REMARKS

This paper is responsive to the Office Action mailed on January 14, 2005.

Reconsideration of this application is respectfully requested. Claims 1-4, 8-9, 12-15, 17, 20-22, 25, 29-34, 37-39, 42 and 46-51 are currently pending in this application. Claims 1-4, 8-9, 12-15, 17, 20-22, 25, 29-33, 37-39, 42 and 46-51 are currently amended. Claims 1-4, 8-9, 12-15, 17, 20-22, 25, 29-34, 37-39, 42 and 46-51 remain under consideration, and of these claims, 1, 12, 25 and 42 are independent. Claims 5-7, 10-11, 16, 18-19, 23-24, 26-28, 35-36, 40-41 and 43-45 have been canceled without prejudice or disclaimer. There are no new claims. No new matter is added.

The office action objects to the under 37 C.F.R §1.83(a) for failing to show every features of the invention specified in the claims. Applicant has amended claims 1-4, 8-9, 12-15, 17, 20-22, 25, 29-33 and 37-39, 42 and 46-51 so as to more accurately claim the subject matter that the Applicant deems as his invention. Thus, the amendment obviates the objection to the drawings.

The office action objects claims 1-51 due to informalities. All independent claims have either been canceled or amended to overcome the Examiner's objections. The current amendment serves to correct typographical and indefiniteness errors. Consequently, the claims now comply with 35 U.S.C §112. The office action objects the specification for the inclusion of a word not found in the dictionary—"insignium." Application has amended the specification to correct the above identified typographical error.

The office action rejects claims 35 U.S.C §102(b) as being anticipated. Applicant amends claims 1-4, 8-9, 12-15, 17, 20-22, 25, 29-33, 37-39, 42 and 46-51 thereby rendering the anticipatory rejections moot. Applicant has folded in the subject matter from claims 5-7 into independent claim 1.

Turning to the rejections under 35 U.S.C §103(a), the office action rejects claims 5-7 as being obvious over U.S. Patent No. 5,294,924 (Dydzik) in view of U.S. Patent No. 5,774,202 (Abraham). Dydzik pertains to flashing warning light having a single color that is attachable to a traffic control device, such as, a traffic cone or wooden barricade. Abraham relates to a spectral color filter.

The combination of Abraham and Dydzik fails to disclose each and every element of the claimed invention. Specifically, “a safety indicator... having a second color” (emphasis added) is not disclosed in either cited reference. Dydzik only describes a flashing light having a single color. Dydzik discloses alternate colors to be used, but fails to describe a light with a first and second color. As such, the combination does NOT yield the claimed invention.

Moreover, there is no motivation to combine Abraham with Dydzik. Abraham describes flashing warning light tailored for the general populous who have normal color vision. Dydzik discloses using a spectral filter for filtering out color that color blind people are more sensitive to in order to yield vision that more resembles normal vision. The present invention capitalizes on this increased sensitivity to create a safety indicator which is more identifiable to everyone, color-vision impaired or otherwise. Accordingly, one of ordinary skill in art would not combine Abraham with Dydzik.

Applicants have supplemented independent claim 25 with the subject matter included in claims 37-39. The office action rejects claims 29-41 as being obvious over U.S. Patent No. 5,588,156 (Panton) in view of U.S. Patent No. 5,774,202 (Abraham). Panton pertains to an article of clothing having a diamond-shaped retroreflective material.

The combination of Panton and Abraham fails to disclose each and every element of the claimed invention. Specifically, “a safety garment... having a second color” (emphasis added) is not disclosed in either cited reference. Furthermore, Panton cannot be combined with Abraham. Panton pertains to articles of clothing. Abraham relates to spectral filters. The combination would be an article of clothing with color filters attached thereto, and would be completely inoperable. Again, as noted above, there is no motivation to alter Panton to include filters or even colors associated with the wavelengths disclosed in Abraham, in fact no suggestion at all. Applicant reminds the examiner that it is improper to use Applicant’s disclosure to create a hindsight reconstruction of the claimed subject matter.

Therefore, independent claims 1, 12, 25 and 42 distinguish over the cited art and should be allowed. Additionally, the references cited in connection with rejections under 35 U.S.C. §103(a) do not remedy the above-identified deficiencies. Since claims 2-4, 8-9, 13-15, 17, 20-22, 29-34, 37-39 and 46-51 depend, directly or indirectly, from independent claims 1, 16, 25 and

42, claims 2-4, 8-9, 13-15, 17, 20-22, 29-34, 37-39 and 46-51 should be allowed for at least the same reasons as provided for claim 1, 12, 25 and 42.

For at least the reasons stated in the remarks, Applicant believes all pending claims to be in allowable condition. A favorable examination result is earnestly solicited. Questions or issues arising in this matter should be directed to Applicants' representatives, listed below.

The Commissioner is authorized to charge Deposit Account No. 18-1945 under Order No. TBRX-P01-004 the fee of \$510.00 to cover the cost of the petitioned three month extension of time. No other fees are believed to be due in connection with this paper. However, please charge any fees, or credit any overpayment, that may be due in connection with this paper to Deposit Account No. 18-1945, under Order No. TBRX-P01-004 from which the undersigned is authorized to draw.

Dated: July 14, 2005

Respectfully submitted,

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